

196-1142

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE THE APPLICATION OF

Ole Ploug et al.

SERIAL NO.: 09/000,008

FILED: January 15, 1998

FOR: AXIAL PISTON MICROPUMP

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to "Assistant Commissioner of Patents, Washington,

10/19/1999 PVOLPE 00000018 09000008

01 FC:122 Person signing Lori M. Beggs 110.00 OP

02 FC:122  
Signature

*Lori M. Beggs* 130.00 OP

PETITION TO THE COMMISSIONER PURSUANT TO 37 C.F.R. §1.182

Honorable Commissioner of  
Patents and Trademarks  
Washington, D.C. 20231

Dear Sir:

02/20/2002 HNGUYEN 00000070 09000008

The Applicants petition the Commissioner to accept change of name of the second-named  
01 FC:140 110.00 OP

inventor, Jakob Bogh Poulsen, to Jakob Bogh Schubert.

As explained in the papers filed in this application, Mr. Schubert's surname previously was Poulsen, but due to marriage, his surname was changed to Schubert. His full name is now Jakob Bogh Schubert, and in a paper dated June 24, 1998 and of record in this application, Mr. Schubert signed the appropriate declaration explaining the change of name, with his signature being both his former name (Jakob Bogh Poulsen), and his current name (Jakob Bogh Schubert). That document was submitted with a request for reconsideration mailed to the Patent and Trademark Office on December 21, 1998 and received by the Patent and Trademark Office on December 24,

1998. An original signed declaration of Mr. Schubert was mailed to the Patent and Trademark

Adjustment date: 02/20/2002 HNGUYEN  
10/19/1999 PVOLPE 00000018 09000008

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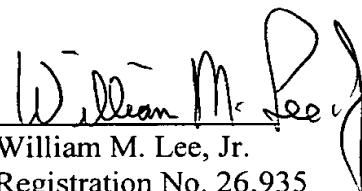
Office on March 19, 1999 and received by the Patent and Trademark Office on March 22, 1999.

Also submitted herewith is the petition fee of \$130 set forth in 37 C.F.R. §1.17(h).

Granting of this petition based upon evidence already of record is therefore requested.

October 6, 1999

Respectfully submitted,

  
William M. Lee, Jr.  
Registration No. 26,935

Lee, Mann, Smith, McWilliams,  
Sweeney & Ohlson  
P.O. Box 2786  
Chicago, Illinois 60690-2786  
(312) 368-6620  
(312) 368-0034 (fax)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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Name of person signing Lori M. Beggs

**Signature**

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When the U.S. national application was filed, no declaration was submitted with the application. In response to a Notification of Missing Requirements issued March 16, 1998, however, on March 23, 1998 a declaration was submitted to the Patent and Trademark Office. That declaration was signed by all three inventors, but Mr. Poulsen signed the declaration as “Jakob Bogh Schubert” indicating that his name formerly was Jakob Bogh Poulsen.

On May 26, 1998, the Patent and Trademark Office issued a Notification of Defective Oath or Declaration, indicating that the declaration did not identify Mr. Poulsen. In response to that notice, a paper entitled “Response to Notification of a Defective Response” was mailed to the Patent and Trademark Office on June 11, 1998, explaining the situation and identifying the fact that the proper inventor had signed, but with his new name.

On December 9, 1998, the Patent and Trademark Office considered the Notification of Defective Response, and issued a Decision On Request And Notification, indicating that because proper signature by the inventor Schubert was not before the Patent and Trademark Office, the application was considered to be abandoned.

On December 21, 1998, a request for reconsideration was filed, explaining that timely papers had, in fact, been submitted to the Patent and Trademark Office, but one of the inventors, namely Mr. Poulsen, has changed his surname to Schubert. Then, on January 21, 1999, the Patent and Trademark Office issued a Notice of Abandonment, and the undersigned filed a further paper with the Patent and Trademark Office requesting withdrawal of the Notification of Abandonment. That ultimately led to an August 26, 1999 Decision On Petition, in which the Patent and Trademark Office ruled that the application remains abandoned, and recommended filing of the instant petition.

It is requested that this petition be considered pursuant to 37 C.F.R. §1.137(a) as being unavoidable. In the August 26, 1999 Decision On Petition, the Patent and Trademark Office

stated that Section 605.04(c) of the Manual of Patent Examining Procedure plainly states that when an inventor's name is changed, he or she must submit a petition under 37 C.F.R. §1.182. That actually already occurred in this application (see the Request mailed December 21, 1998 which specifically requests that it be alternatively considered as a petition pursuant to 37 C.F.R. §1.182), but nothing in MPEP §605.04(c) explains that if an inventor signs an application with his or her new name, that could lead to abandonment of the application. Indeed, nothing that has been found in the Manual of Patent Examining Procedure which explains that such a result would occur, particularly when the inventor properly signed the application with his new name, and indicated that it was a change of name. While the Applicants could expect that an appropriate petition to accept the name change would need to be filed, nothing in the Manual of Patent Examining Procedure or rules would suggest potential abandonment of the application in this situation.

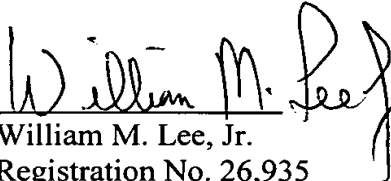
Accordingly, Applicants' petition for revival of this application on the basis that the abandonment was unavoidable. As required pursuant to 37 C.F.R. §1.137(a), submitted with this petition is (1) the required reply, that being a petition pursuant to 37 C.F.R. §1.182, (2) the \$110.00 petition fee as set forth in 37 C.F.R. §1.17(l), and (3) a showing, as explained above, that the entire time from the abandonment of the application until the filing of a grantable petition was unavoidable. No terminal disclaimer is required in this situation.

Alternately, while it is submitted that abandonment of the application clearly falls within the unavoidable basis for revival of the application, if the Patent and Trademark Office determines otherwise, it is requested that this petition be considered under 37 C.F.R. §1.13(b) as being unintentional. For the reasons stated, the entire delay until the filing of a grantable petition was, and remains, unintentional. Never was abandonment of this application intended, and as the record will show, the opposite result has always been sought.

Good cause having been shown, revival of this application is requested. Any additional fees deemed necessary should be deducted from deposit account number 12-0913.

October 6, 1999

Respectfully submitted,

  
William M. Lee, Jr.  
Registration No. 26,935

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